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ALEXANDER L. STEVAS,
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No. 83-240

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

LAWRENCE COUNTY AND THE LAWRENCE COUNTY COMMISSIONERS, *Appellants*,

v.

LEAD-DEADWOOD SCHOOL DISTRICT NO. 40-1, *Appellee*.

On Appeal From The Supreme Court Of The State Of South Dakota

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JOINT APPENDIX

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Appeal Docketed August 15, 1983
Probable Jurisdiction Noted March 26, 1984

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IN CIRCUIT COURT
EIGHTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA
COUNTY OF LAWRENCE

LEAD-DEADWOOD SCHOOL DISTRICT NO. 40-1,
Plaintiff,

vs.

LAWRENCE COUNTY, and the
LAWRENCE COUNTY COMMISSIONERS,
Defendants.

COMPLAINT FOR WRIT OF MANDAMUS
(Chapter 21-29, SDCL)

Plaintiff pleads:

I.

The Lead-Deadwood School District is a political subdivision created by the statutes of the State of South Dakota, authorized to provide free public education to the residents of the District.

II.

Lawrence County and the Lawrence County Commissioners are political subdivisions of the State of South Dakota, which is the county governmental entity having jurisdiction in Lawrence County.

III.

The Lead-Deadwood School District No. 40-1 is contained within Lawrence County.

IV.

That Public Law 94-565, which is codified as 31 USC, Section 1601 et seq, authorizes the United States of America through the Secretary of the Interior to make payments on a fiscal year basis to Lawrence County, which payments are in lieu of real estate taxes.

V.

That SDCL 5-11-6 requires the County Auditor to distribute all Federal and State payments which are in lieu of tax proceeds in the same manner as taxes are distributed by Defendants.

VI.

That Defendants have received monies from the United States of America through the Secretary of the Interior under Public Law 94-588 [sic], codified as 16 USC, Sections 1601 et seq.

VII.

That upon information and belief, Plaintiff believes that the Defendants are in possession of $400,000+, which Defendants refuse to distribute under SDCL 5-11-6.

VIII.

That Plaintiffs do not have a plain, speedy and adequate remedy in the ordinary course of law.

WHEREFORE, Plaintiffs pray that the Court issue its Writ of Mandamus requiring the Defendants to distribute monies paid to them by the United States of America by and through the Secretary of the Interior under Public

Law 94-565, codified as 31 USC, Section 1601 et seq, pursuant to SDCL 5-11-6.

Dated this 15th day of February, 1982.

/s/A. P. Fuller
A.P. FULLER

(VERIFICATION AND JURAT OMITTED IN PRINTING)

(TITLE OMITTED IN PRINTING)

ANSWER AND AMENDED COUNTERCLAIM

Comes now the above named Defendants in Answer to Plaintiff's Complaint states and alleges as follows:

I.

Defendants deny each and every fact, matter or thing contained in Plaintiff's Complaint unless specifically admitted herein.

II.

Defendants move to dismiss said Complaint for failure to state a claim upon which relief can be granted.

III.

Defendants admit those allegations contained in Paragraphs I., II., III., IV., V. and VII. of Plaintiff's Complaint.

IV.

Defendants move to dismiss Plaintiff's Complaint for failure to join Sherryl Flanagan, Lawrence County Auditor, as an indispensable party.

AMENDED COUNTERCLAIM

Comes now Lawrence County, the Lawrence County Commissioners and Sherryl Flanagan, Auditor of Lawrence County, and counterclaims against Lead-Deadwood School District as follows:

I.

That Lawrence County and the Lawrence County Commissioners are political subdivisions of the State of

South Dakota, which is a County governmental entity having jurisdiction in Lawrence County.

II.

That Sherryl Flanagan is the duly elected and qualified Auditor for Lawrence County.

III.

That Lead-Deadwood School District No. 40-1 is a political subdivision of the State of South Dakota authorized to provide public education to the residents of said district in Lawrence County, South Dakota.

IV.

That Public Law No. 94-565 which is codified as 31 USC, Section 1601 et seq, authorizes the United States of America through the Secretary of the Interior to make payments on a fiscal year basis to Lawrence County, South Dakota.

V.

That said payments are made to Lawrence County because of the existence in Lawrence County of Federal entitlement lands as the same are defined in 31 USC 1606.

VI.

That SDCL 5-11-6 requires the Lawrence County Auditor to distribute all Federal and State payments which are in lieu of tax proceeds in the same manner as taxes are distributed.

VII.

That Public Law 94-565 authorizes said payments to Lawrence County, South Dakota for use by such unit of government for any governmental purpose.

VIII.

That Congress in the creation of Public Law 94-565 specifically defined a unit of local government, as referred to in 31 USC 1601 to refer to a county form of government in the State of South Dakota.

IX.

That Congress in the enactment of Public Law 94-565 specifically authorized the Secretary of the Interior to promulgate regulations to carry into full force and effect the purposes and provisions of Public Law 94-565.

X.

That the Secretary of the Interior promulgated 43 CFR 1881.0-5(b)(2) which specifically excludes school districts from a unit of general government authorized to receive payments in lieu of taxes.

XI.

That since the enactment of Public Law 94-565, and at this time, Lawrence County has in its possession in excess of Four Hundred Thousand Dollars ($400,000.00) received from the United States Government as payments in lieu of taxes which have not been distributed to school districts pursuant to the provisions [of] SDCL 5-11-6.

XII.

That Defendant Lawrence County and Lawrence County Commissioners believe Public Law 94-565 to be directly in conflict with the provisions of SDCL 5-11-6 wherein Defendants Lawrence County believe they cannot abide by the provisions of said State statute.

XIII.

That Article VI. Clause II. of the United States Constitution and applicable section of the South Dakota State Constitution specifically states that Federal Statutes are supreme over State legislation.

XIV.

That it is impossible for Defendants to abide by the provisions of SDCL 5-11-6 and Public Law 94-565.

XV.

That for Defendants to abide by the provisions of SDCL 5-11-6 would destroy the purposes and intents clearly established by Congress in the creation of Public Law 94-565 as is evidenced by the complete Congressional Record and history of Public Law 94-565.

XVI.

That said State Statute is unconstitutional in that it directly is in conflict, frustrates, and makes it impossible for Lawrence County to abide by both the Federal and State legislation.

XVII.

That the Spearfish School District 40-2 will be a recipient of monies disbursed by the County if the provisions of SDCL 5-11-6 are to be followed.

XVIII.

That if Lawrence County is required to abide by the provisions of SDCL 5-11-6, that Lawrence County will be required to disburse some of the monies received by Lawrence County, under the formula prescribed in said Federal Public Act, to Meade School District 46-1 in Sturgis, South Dakota.

XIX.

That if Lawrence County is required under SDCL 5-11-6 to distribute some of the money received under Public Law No. 94-565 out of Lawrence County, that said distribution would be prejudicial to Lawrence County and the taxpayers and citizens of Lawrence County in that it would be a reduction of moneys available in Lawrence County for use in lieu of taxes.

Wherefore, Lawrence County and Lawrence County Commissioners and Lawrence County Auditor respectfully request this Court to declare the rights and remedies of the parties and to specifically declare SDCL 5-11-6 to be in direct conflict and controvention with Public Law 94-565 and therefore unconstitutional and of no force and effect.

Dated this 6th day of April, 1982.

/s/Craig D. Grotenhouse
CRAIG D. GROTENHOUSE
Lawrence County State's Attorney

(CERTIFICATE OF SERVICE OMITTED IN PRINTING)

(TITLE OMITTED IN PRINTING)

REPLY TO DEFENDANTS' AMENDED COUNTERCLAIM

Plaintiff pleads:

I.

Plaintiff admits the following Paragraphs in Defendants' Amended Counterclaim: Paragraphs I, II, III, IV, V, VI, VIII, X, and XI.

II.

Plaintiff denies each and every matter, allegation and thing contained in Defendants' Amended Counterclaim except as hereinbefore specifically admitted.

WHEREFORE, Plaintiff demands that Defendants' Counterclaim be dismissed and that the Plaintiff take Judgment on its Complaint and for the Plaintiff to receive its costs and disbursements herein.

Dated this 13th day of April, 1982.

/s/A. P. Fuller
A. P. FULLER
AMUNDSON & FULLER
Attorney for Plaintiff

(CERTIFICATE OF SERVICE OMITTED IN PRINTING)

(TITLE OMITTED IN PRINTING)

STIPULATION OF FACT

Parties hereto stipulate the following:

I.

Lawrence County is a recipient county for the receipt of monies under Public Law 94-565 (31 USC Sec. 1601-1607).

II.

Lawrence County received during the calendar year 1979 the sum of $134,627.00 under Public Law 94-565. Lawrence County received during calendar year 1980 the sum of $110,370.00 under Public Law 94-565. Lawrence County received further payment in 1981 the sum of which is not known, under Public Law 94-565.

III.

Lawrence County has retained all of said sums of money and has not distributed any monies paid under Public Law 94-565 to the above named Plaintiff under SDCL 5-11-6.

IV.

Public Law 94-565 (31 USC Sec. 1601-1607) was duly passed by the United States Congress October 10, 1976.

V.

SDCL 5-11-6, as amended, was duly passed by the South Dakota Legislature and was effective July 1, 1979.

VI.

That SDCL mandates that a portion of revenues received by Lawrence County be disbursed by said County

into Meade School District 46-1 in Meade County, South Dakota.

Dated this 17th day of August, 1982.

/s/Craig D. Grotenhouse
CRAIG D. GROTENHOUSE
Attorney for Defendant

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/s/A. P. Fuller
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(TITLE OMITTED IN PRINTING)

NOTICE OF APPEAL

TO: LAWRENCE COUNTY, and the LAWRENCE COUNTY COMMISSIONERS, and their attorney, CRAIG D. GROTENHOUSE

Please take notice that the Plaintiff shall appeal the Judgment entered by the Court on the 1st day of October, 1982 in the above captioned matter.

Dated this 18th day of October, 1982.

AMUNDSON & FULLER

/s/A. P. Fuller
A. P. FULLER
Attorney for Plaintiff

(CERTIFICATE OF SERVICE OMITTED IN PRINTING)